

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 11, 2003

IN RE:

**BELLSOUTH TELECOMMUNICATIONS, INC.
TARIFF TO INTRODUCE SWA PRICING
FLEXIBILITY – Tariff Number 2002256**

**DOCKET NO.
02-01073**

INITIAL ORDER ADMINISTRATIVELY CLOSING DOCKET

This matter is before the Hearing Officer pursuant to the decision of the voting panel assigned to this docket during the regularly scheduled Authority Conference on August 4, 2003 to approve Tariff No. 2003729, the tariff substituted for Tariff No. 2002256 pursuant to a Settlement Agreement between the parties.

Background

On September 20, 2002, BellSouth filed Tariff No. 2002256. The proposed effective date of the Tariff was October 14, 2002.

On October 7, 2002, AT&T Communications of the South Central States, Inc. and Birch Telecom, Inc. (collectively, the "CLEC Coalition") filed the *Petition*, alleging that the Tariff violated Tenn. Code Ann. §§ 65-4-124 and 65-5-203(a). The CLEC Coalition requested the Authority to suspend the Tariff, convene a contested case and require BellSouth to prove that the Tariff is just and reasonable.

At a regularly scheduled Authority Conference held on October 7, 2002, Chairman Sara Kyle and Directors Pat Miller and Ron Jones, the voting panel assigned to this docket, unanimously voted to suspend the Tariff for thirty days to allow sufficient time for BellSouth

to respond to the *Petition*. The panel deferred consideration of whether to convene a contested case to address the issues raised in the *Petition* to the next regularly scheduled Authority Conference. On October 10, 2002, the Consumer Advocate and Protection Division of the Office of the Attorney General and Reporter ("CAPD") moved to intervene.

On October 14, 2002, BellSouth filed the *Answer to CLEC Coalition Petition to Suspend Tariff and to Convene a Contested Case Proceeding*. BellSouth denied each allegation in the *Petition* and opposed the CLEC Coalition's request to convene a contested case.

During the October 21, 2002 Authority Conference, the panel unanimously voted to convene a contested case, allow the CAPD to intervene and suspend the Tariff for an additional ninety days. In addition, the panel appointed the General Counsel or his designee to act as Hearing Officer to prepare the case for a hearing on the merits.

On January 30, 2003, the Hearing Officer issued a *Notice* establishing a Procedural Schedule. Upon the joint requests of the CLEC Coalition and BellSouth, the Hearing Officer continued the Procedural Schedule to facilitate settlement negotiations.

On July 3, 2003, the CLEC Coalition and BellSouth filed a letter advising the Authority that (1) the matters at issue in this proceeding had been resolved; (2) consistent with the settlement, the CLEC Coalition was requesting that the *Petition* be withdrawn; and (3) BellSouth was withdrawing the Tariff in its entirety and filing a new tariff.

On July 11, 2003, the Hearing Officer issued the *Initial Order Accepting Withdrawal of Petition*, finding that the interests of justice and administrative economy would be served by accepting the withdrawal of the *Petition*.

On July 16, 2003, BellSouth filed a letter informing the Authority that it was (1) withdrawing Tariff No. 2002256 in its entirety and (2) filing a substitute tariff, the

Revised Tariff to Introduce SWA Pricing Flexibility, which was given Tariff No. 2003729, to be effective August 4, 2003. On July 30, 2003, BellSouth filed the Tariff Filing to Revise the SWA Pricing Flexibility Tariff. On July 30, 2003, BellSouth also filed the Second Tariff Filing to Revise the SWA Pricing Flexibility Tariff, which altered the termination provisions of Tariff No. 2003729.

The August 4, 2003 Authority Conference


During the August 4, 2003 Authority Conference, the panel considered the substitute tariff, Tariff No. 2003729, which was not opposed. After finding that Tariff No. 2003729 comported with the applicable legal requirements, the panel unanimously voted to approve Tariff No. 2003729.

Findings and Conclusions

The time to seek review of the *Initial Order Accepting Withdrawal of Petition* has expired.¹ The panel's decision to approve the substitute tariff is unopposed. Inasmuch as no issues remain unresolved, this docket shall be administratively closed.

IT IS THEREFORE ORDERED THAT:

1. This docket is hereby administratively closed.
2. Any party aggrieved by this Order may file a Petition for Reconsideration with the Tennessee Regulatory Authority pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of this Order.



Lynn Questell
Hearing Officer

¹ See Tenn. Code Ann. § 4-5-315(b) (providing for appeals of Initial Orders within fifteen days after entry thereof).